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February 20, 2002

Mr. William Caton
Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

EX PARTE

Telecommunications Carrier's Use of Customer Proprietary Network Information
and other Customer Information – CC Docket 96-115 and Implementation of Non-
Accounting Safeguards, CC Docket 96-149

Dear Mr. Caton:

On February 19, 2002, R. Ellis, L. Katz and J. Laporta of Verizon met with Marcy Greene and Bill Dever of the Common Carrier Bureau to Verizon's position on CPNI issues. A copy of the handouts and previously filed comments including customer feedback summarizing the points discussed in the meeting is attached.

If there are any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Richard T. Ellis".

Attachment

Cc: M. Greene
W. Dever

Opt-Out Is Consistent With Consumer Expectations And Is Good Public Policy

- The Record Demonstrates That Most People Expect That A Single Firm Will Be Able To Use Information Derived From Providing One Service To Offer Additional Products And Services
- People Who Are Concerned Will Opt Out

- Most Recent Publicity Has Centered Around Disclosure To Non-Affiliates, Which Requires Prior Written Consent
- Verizon's Opt-Out Notice Has Engendered Little Concern
- Allegations Of Carriers Establishing Joint Marketing Partnerships With Providers Of Medical Products And Telemarketing Retailers Have No Basis In Fact And Would Be Beyond Scope of Opt-Out Rule
- Opt-Out Worked Well, Without Complaint, For More Than A Decade
- Wireless Has Been Able To Share, Without Customer Consent, CPNI Across Product Lines Leading To A Vast Array Of Integrated Product Offerings

The Record And Historical Precedent Fully Supports Opt-Out

Opt-Out Is Required By Law

- The 10th Circuit Found That CPNI Regulations Restrict Commercial Speech Which Is Protected Under the First Amendment
- Opt-In Is Not Narrowly Tailored To Protect Against Any Articulated State Interest In Protecting Privacy
- Nothing In The Record Shows That Sharing CPNI Within A Carrier Enterprise Is Inconsistent With Customer Expectations of Privacy
- Rather, The Record Demonstrates That Customers Expect A Company To Use The Customer Information It Derives From Providing Services To Them To Offer Additional Products And Services

Therefore, Opt-Out Is The Maximum Restriction That Can Lawfully Be Adopted

There Is No Legal Or Policy Basis For The Commission To Change Its Findings On The Relationship Of Section 222 And 272

- Nothing Has Changed That Should Cause The Commission To Revisit Its Finding, Made Three Times, That The Section 272(c) Reference To "Information" Does Not Include CPNI
- The CPNI Order, The CPNI Reconsideration Order, And AT&T/Bell Atlantic Complaint
- The Commission Should Reaffirm Its Finding (CPNI Order At Paras 162 And 163) That Disclosure Of CPNI To Unaffiliated Entities Without Affirmative Consent Would Defeat Rather Than Protect A Customer Privacy Expectations
- Section 272(g)(3) Permits Joint Marketing Which Cannot Be Effectively Accomplished Without Access To CPNI
- The BOC's 272 Affiliates Will Not Gain A Competitive Advantage
- The BOCs Are Entering With Zero Market Share, Competing Against Entrenched Incumbent IXCs
- Historical Precedent Proves That Use And Control Of CPNI Offer No Significant Competitive Advantage – In Or Across Markets
- CPE/Enhanced Services
- IXC Market – Competition Grew And Thrived Even Though Incumbent AT&T Had Unchecked Right To Use CPNI and No Obligation To Share With Competitors, Even On Written Request
- Local Market – Congress Did Not Require BOCs To Share CPNI With Competitors

The Commission's Prior Rulings on Sections 222 And 272 Are Consistent With Opt-Out



The Commission Should Make Its Interim Rules Permanent

- Carriers Must Give Customers A Convenient Way To Opt-Out
- A 30 Day "Safe Harbor" Waiting Period Is Sufficient
- Provide Notification Consistent With Section 65.2007(f)
- Inconsistent State Requirements Are Difficult To Administer And Confusing To Customers

Broad National Guidelines Are Appropriate And Sufficient



Customer Proprietary Network Information – Special Notice

Under Federal Law, you have the right to, and we have the duty to protect the, confidentiality of your telecommunications service information. This information includes the type, technical arrangement, quantity, destination, and amount of use of telecommunications services and related billing for these services.

We may use this information, without further authorization by you, to offer you (i) services of the type you already purchase from us and (ii) the full range of products and services available from Verizon and its affiliates that may be different from the type of services you currently buy from us. In addition to local telephone services, Verizon and Verizon affiliate services include long distance (where authorized), wireless, and Internet services. A more complete description of our companies and service offerings is available at www.verizon.com. Use of your information as described in this notice will permit us to offer you a package of services tailored to your specific needs. Without further authorization by you, we may also share your information with Verizon affiliates with whom you already have an existing service relationship.

No action by you is necessary to permit us to use your information as described in this notice. If you wish to restrict Verizon or Verizon affiliate use of your information to offer services different from the type of services you currently buy from us, please call us at [toll free number] within 30 days of receipt of this notice. You may change your decision at any time and your decision will remain valid until you tell us otherwise. Whatever you decide will not affect our provision of service to you. If you have any questions, please call your service representative or account manager.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Computer III Remand Proceedings:)	CC Docket No. 90-623
Bell Operating Company Safeguards;)	
and Tier 1 Local Exchange Company)	
Safeguards)	
)	
Application of Open Network)	
Architecture and Nondiscrimination)	CC Docket No. 92-256
Safeguards to GTE Corporation)	

SUPPLEMENTAL COMMENTS OF BELL ATLANTIC¹

These comments supplement Bell Atlantic's filing on the initial April 11 due date, prior to the Commission's *sua sponte* extension of time.²

In the initial comments, Bell Atlantic cited a recent national survey by Louis Harris and Associates and Dr. Alan Westin showing that customers expect an integrated company to be able to market all of its products and services together.³ That study has subsequently been published and is referenced in a trade publication, the relevant pages of which appear in

¹ The Bell Atlantic Telephone Companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² **Order**, DA 94-331 (rel. April 14, 1994).

³ Comments of Bell Atlantic at 9-10 (filed April 11, 1994).

Attachment 1.⁴ It shows that nearly two-thirds of the public finds it acceptable for one subsidiary of a firm to share customer information with another subsidiary in order that the second can solicit customers for its products or services.⁵

Attachment 2 contains quotes and paraphrased statements showing that Bell Atlantic's customers have similar expectations to those polled in the national survey. These quotes and statements are from customer calls to Bell Atlantic's business offices and comments written on CPNI notification response forms.

They show that Bell Atlantic's customers expect Bell Atlantic to be able to offer all of its products and services on an integrated basis, and that they strongly desire that result.⁶ Artificial restrictions on access to customer information are inconsistent with these expectations.

These customer quotes were obtained after the recent publicity regarding merger and acquisition activity in the telecommunications industry. None of them distinguished between services and products developed in-house, as opposed to those acquired by merger or acquisition. Accordingly, there is no reason to assume any different customer expectations based on the genesis of the service or product, and no reason to reconsider

⁴ "New Harris Survey Sheds Light on FCRA Issues," **Privacy & American Business**, Vol. 1, No. 3 at 7, 13-14 (1994).

⁵ *Id.* at 14.

⁶ Some, but not all, of the quoted customers had CPNI-restricted records.

the customer proprietary network information ("CPNI") rules to take account of merger activity.

Also included in Attachment 2 are statements from customers and from Bell Atlantic marketing personnel with customer contact responsibilities that demonstrate frustration and anger at the difficulties they face in dealing with Bell Atlantic as a result of the CPNI rules. Customers do not understand why there should be any distinction in marketing basic network services, enhanced services (a concept that most fail to understand) and customer premises equipment and are confused as to the impact of restricting or not restricting records. They particularly express their displeasure when they must talk with more than one service representative to obtain answers to questions about enhanced services or to place basic service orders if their records are restricted.⁷

⁷ Calls to Bell Atlantic business offices are randomly distributed to representatives who may sell enhanced services (and, therefore, may not have access to restricted CPNI) and those who have access to all CPNI (and, therefore, may not sell enhanced services).

These statements show that the existing CPNI rules do not benefit customers -- they only help competitors by eliminating the benefits of enhanced services integration. More onerous rules will simply add to customer inconvenience and confusion.

Respectfully submitted,

**The Bell Atlantic Telephone
Companies**

By Their Attorney

Edward D. Young, III
Of Counsel

May 5, 1994

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CPNI Rules Do Not Benefit Customers

The following is a sample of quotes and paraphrased statements from Bell Atlantic's customers that relate to this proceeding. The first section shows that customers expect Bell Atlantic sales personnel to be able to market the full range of Bell Atlantic products and services. The second section shows that many customers are confused and angered by the inconvenience caused by the Commission's existing CPNI rules. The business office procedures that cause customer transfers to more than one representative were prompted by the requirements of the Commission's CPNI rules.

Customer Expectations

1. "[The people at] Bell Atlantic are the experts. Have them look at my business and provide me with the services that fit my needs."
2. Bell Atlantic "should objectively assess your present and future needs and recommend what is appropriate."
3. "The company should look for ways to improve my services to my customers with [a full range of] telecommunications products.... Think of the customer's customer."
4. "Marketing reps. should tell me what is best and most economical to meet my needs."
5. "Marketing reps. should tailor the products/services they offer for the customer's needs."

6. "Marketing reps. should contact customers periodically to check on how things are going, inquire about new needs and inform them about new services that may be coming up."
7. "The company should be proactive in contacting customers about services [and products]."
8. "We'd like to be able to pick those options that would be good for our business [rather than having to pick among all of the company's offerings]."
9. "I don't want to have to keep making decisions; give me a service and a price and be done with it."
10. "I want the vendor to put a complete package together."
11. "[Bell Atlantic should] give you a personal service representative, one person responsible for [all services in] your account. If you have a problem or a concern, you can get on the phone and he's going to be able to readily solve it."

Confusion and Anger

1. Customer annoyed and angered when sales rep. (authorized to sell CPE and enhanced services) could not access the customer's CPNI-restricted records to help remedy a repair problem.
2. Customer with CPNI restriction who called account rep. for recommendations about best range of solutions (including CPE and enhanced services) to meet business problem was confused that rep. could not access records for that purpose.
3. "It would make sense to me you should be able to customize the features by line, and [there should be] some way to easily address that with Bell Atlantic if your needs change without going through some labyrinth [of different personnel or] voice messages."
4. "The Rep. who answered the phone couldn't give me rates for Answer Call. I didn't like being transferred."
5. "I think the FCC ruling about CPNI is ridiculous and it needs to be changed."
6. "I called to get information on voice mail, and I had to be transferred.... I'd also called before and the Rep. who answered the phone couldn't answer my questions that time either."

7. "It takes a lot of time to fill out the [CPNI authorization] form in my bill, find a stamp, and mail it."

8. "I don't understand [the CPNI notification letter]. Restrict me to the max."

The following are statements from Bell Atlantic Service Representatives reporting on the many complaints they have received about CPNI:

1. "Customers just don't understand CPNI."

2. "Customers tell us they don't like to be transferred, they just want to talk to one person who can look at all the records."

3. "Customers think CPNI means they'll never get another solicitation call from anyone about anything."

4. "This is no different than any other business. If a customer asks you a question, you want to look in their records to answer them."

5. "If we do not have access to a customer's record, how can we improve their services and reduce their costs? We do that all the time, change something they have to something better based on something we saw in their records."

6. "Most customers have little or no record of their services. They rely on us to tell them what they have."

7. "It's insanity that you can't look at a customer's record when they ask you a question. No other company in it's right mind operates that way."